

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

FRANK MICHAEL MONTE,)
Petitioner,)
v.)
UNITED STATES OF AMERICA,)
Respondent.)

No. CIV-21-89-R

ORDER

Petitioner, a federal pretrial detainee, filed this action pursuant to 28 U.S.C. § 2241, while temporarily housed within the Western District of Oklahoma. Pursuant to 28 U.S.C. § 636(b)(1)(B) and (C), the matter was referred to United States Magistrate Judge Gary M. Purcell for preliminary review. On April 7, 2021, Judge Purcell issued a Report and Recommendation wherein he recommended that the petition be dismissed without prejudice. (Doc. No. 15). The matter is currently before the Court on Petitioner's timely objection to the Report and Recommendation, which gives rise to the Court's obligation to undertake a de novo review of the Report and Recommendation (Doc. No. 16). Having conducted this de novo review, the Court finds as follows.

The Report and Recommendation sets forth the history of Petitioner's detention and the ongoing criminal case pending against him in the United States District Court for the District of New Jersey. Judge Purcell also notes that during the pendency of this case Petitioner was transferred out of this District to the Los Angeles Metropolitan Detention Center. Although the case could be transferred to the appropriate district – that is where

Petitioner is currently confined – Judge Purcell concluded that such a transfer was not in the interests of justice, because the issues raised by Mr. Monte must be raised in his criminal case, not via a separate habeas proceeding. In his objection, Petitioner makes general statements about relief via petition for writ of habeas corpus and challenges various actions allegedly taken by the District Court of New Jersey with regard to his criminal case. None of the factual assertions or legal arguments contained in the objection directly addresses Judge Purcell’s conclusion that the petition herein should be dismissed without prejudice. Accordingly, the Report and Recommendation is hereby ADOPTED and this matter is DISMISSED without prejudice for the reasons set forth therein.¹

IT IS SO ORDERED this 28th day of April 2021.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE

¹ Petitioner sent a letter dated April 19, 2021, requesting therein to be provided a video teleconference for oral argument before any decision is rendered on the Report and Recommendation. That request (Doc. No. 17) is DENIED.